

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2002-106-C - ORDER NO. 2002-579 ✓ ~~110~~  
AUGUST 12, 2002

IN RE: Petition of CaroNet, Inc. to Transfer its	)	ORDER GRANTING
Certificates of Public Convenience and	)	MOTION FOR
Necessity to Provide Intrastate	)	EXPEDITED REVIEW,
Telecommunications Services as a Carrier's	)	APPROVING TRANSFER
Carrier, and Interexchange Carrier and a	)	OF CERTIFICATES AND
Competing Local Exchange Carrier to	)	APPROVING
Progress Telecom Corporation.	)	ALTERNATIVE
	)	REGULATION AND
	)	FLEXIBLE
	)	REGULATION
	)	

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Motion for Expedited Review filed by CaroNet, Inc. ("CaroNet") requesting expedited review of CaroNet's petition seeking transfer of CaroNet's certificates of public convenience and necessity to provide telecommunications services as a carrier's carrier, an interexchange carrier, and a competing local exchange carrier to CaroNet's affiliate, Progress Telecom Corporation ("Progress Telecom").

On March 29, 2002, CaroNet filed with the Commission a petition seeking approval from the Commission to allow CaroNet to transfer its certificates of public convenience and necessity to provide telecommunications services as a carrier's carrier, an interexchange carrier, and a competing local exchange carrier to CaroNet's affiliate, Progress Telecom. The certificates of public convenience and necessity under which CaroNet is authorized to provide telecommunications services within South Carolina are

those issued pursuant to Order No. 95-1681 (November 14, 1995), Docket No. 95-993-C and Order No. 98-722 (September 17, 1998), Docket No. 98-259-C as modified to reflect a name change by Order No. 2000-864 (October 24, 2000), Docket No. 98-259-C. CaroNet also requested that Progress Telecom be allowed to operate under flexible regulation in accordance with the principles and procedures established in Order No. 98-165 in Docket No. 97-467-C, and under alternative regulations as established in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

By its Petition, CaroNet asserts that in November, 2000, Progress Energy, Inc. acquired Florida Progress Corporation. Florida Progress Corporation was the holding company that owned Florida Power Corporation. Florida Progress Corporation also owned a telecommunications company called Progress Telecommunications Corporation. Progress Energy, Inc. now seeks to combine Progress Telecommunications Corporation and CaroNet into a new corporation, Progress Telecom. CaroNet is presently not serving any customers in South Carolina

Subsequent to the filing of CaroNet's Petition, the Commission's Executive Director instructed CaroNet to publish a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Petition. The Notice of Filing provided details of the Petition and provided information for public participation in the proceedings concerning the Petition. As required by the Commission's Executive Director, CaroNet provided affidavits of publication of the Notice of Filing. A Petition to Intervene was filed on behalf of the South Carolina Telephone Coalition.

After intervening in the proceeding, the South Carolina Telephone Coalition entered into a stipulation with Progress Telecom whereby the South Carolina Telephone Coalition agreed not to oppose the petition of CaroNet to transfer its certificates of public convenience and necessity to Progress Telecom and whereby Progress Telecom agreed to provide service only to customers located in non-rural local exchange company service areas unless Progress Telecom provides notice to the South Carolina Telephone Coalition as provided in the Stipulation.

Following, the filing of the Stipulation between Progress Telecom and the South Carolina Telephone Coalition, Progress Telecom filed its Motion for Expedited Review of Petition. By its Motion for Expedited Review, CaroNet asserts that Progress Telecom possesses the financial, operational, and managerial resources to provide high quality service, at competitive rates, terms, and conditions. CaroNet also filed with its Motion the verified testimony of Cathy J. Quinn, Senior Interconnection and Regulatory Specialist for Progress Telecom Corporation. Ms. Quinn's testimony supports the information contained in CaroNet's Petition. In addition, Ms. Quinn testifies that CaroNet and Progress Telecommunications will combine their assets and operations to form a regional telecommunications company capable of providing local, toll, and exchange access telecommunications services in South Carolina. Ms. Quinn further offers that the approval of the Petition is in the public interest as the combination of the operations of CaroNet and Progress Telecommunications will result in a powerful telecommunications company capable of providing high quality competitive local, toll, and exchange access services in South Carolina.

S.C. Code Ann. Section 58-9-310 (Supp. 2001) provides, in part,

No telephone utility, without the approval of the Commission after due hearing and compliance with all other existing requirements of the laws of the State in relation thereto, may sell, transfer, lease, consolidate, or merge its property, powers, franchises, or privileges or any of them ...

As no person or entity has filed opposition to CaroNet's Petition, the Commission grants CaroNet's Motion for Expedited Review and will consider CaroNet's Petition in the context of its regularly scheduled meeting on June 6, 2002. The Commission deems its discussion of the matter in the Commission meeting, with court reporter present, to constitute "due hearing" as required by S.C. Code Ann. Section 58-9-310 (Supp. 2001).

Based upon the record before it, the Commission makes the following Findings of Fact:

1. CaroNet is a corporation organized and existing under the laws of the State of North Carolina and is authorized by this Commission to provide local, interexchange, and exchange access telecommunications services in South Carolina and to provide telecommunications services as a carrier's carrier in South Carolina. The certificates of public convenience and necessity under which CaroNet is authorized to provide telecommunications services within South Carolina are those issued pursuant to Order No. 95-1681 (November 14, 1995), Docket No. 95-993-C and Order No. 98-722 (September 17, 1998), Docket No. 98-259-C as modified to reflect a name change by Order No. 2000-864 (October 24, 2000), Docket No. 98-259-C.

2. In November, 2000, Progress Energy, Inc. acquired Florida Progress Corporation. Florida Progress Corporation was the holding company that owned Florida

Power Corporation. Florida Progress Corporation also owned a telecommunications company called Progress Telecommunications Corporation.

3. Progress Energy, Inc. now wishes to combine Progress Telecommunications and CaroNet, Inc. into a new corporation known as Progress Telecom. Progress Telecom is an indirect subsidiary of Florida Progress Corporation, which is a direct subsidiary of Progress Energy, Inc.

4. Progress Telecom will possess the managerial and operational expertise necessary to provide high quality telecommunications services. Progress Telecom will also possess the facilities and financial resources necessary to provide high quality telecommunications services.

5. The combination of the operations of CaroNet and Progress Telecommunications into Progress Telecom will result in a powerful telecommunications company capable of providing high quality competitive local, toll, and exchange access telecommunications services in South Carolina.

6. Pursuant to its Stipulation with the South Carolina Telephone Coalition, Progress Telecom has agreed, with certain exceptions, to provide service only to customers located in non-rural local exchange company services areas in South Carolina.

7. CaroNet petitions the Commission to approve for the operations of Progress Telecom alternative regulation in accordance with the principles and procedures established in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and flexible regulation in accordance with the principles and procedures established in Order No. 98-165 in Docket No. 97-467-C.

Based upon the above stated Findings of Fact, the Commission concludes that CaroNet should be authorized to transfer its Certificate of Public Convenience and Necessity to the newly-created Progress Telecom.

IT IS THEREFORE ORDERED THAT:

1. CaroNet's Motion for Expedited Review is granted.
2. CaroNet's Petition for Approval of Transfer of Certificate of Public Convenience and Necessity is approved, and CaroNet is authorized to transfer to Progress Telecom the certificates of public convenience and necessity authorizing CaroNet to provide telecommunications services as a carriers' carrier, intrastate interexchange services, and switched and special local exchange services throughout those areas in South Carolina in which BellSouth Telecommunications, Inc. and GTE South (n/k/a Verizon South) are the incumbent local exchange carriers as reflected in Order No. 95-1681 (November 14, 1995), Docket No. 95-993-C and Order No. 98-722 (September 17, 1998), Docket No. 98-259-C as modified to reflect a name change by Order No. 2000-864 (October 24, 2000), Docket No. 98-259-C.
3. The operations of Progress Telecom shall be regulated under modified alternative regulation in accordance with the principles and procedures established in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997 and under flexible regulation in accordance with the principles and procedures established in Order No. 98-165 in Docket No. 97-467-C.

Under the Commission approved modified alternative regulation, the business service offerings of Progress Telecom, including consumer card services and operator

services, are subject to a relaxed regulatory scheme identical to that approved for AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C, as later modified by Order No. 2001-997. Pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme now known as modified alternative regulation, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Progress Telecom also.

With regard to the residential interexchange service offerings of Progress Telecom, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984). Further, Progress Telecom shall not adjust its residential interexchange

service rates below the approved maximum level without notice to the Commission and to the public. Progress Telecom shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2001).

Under flexible regulation for local exchange service offerings, Progress Telecom shall file with the Commission tariffs which shall include a maximum rate structure. The maximum rate structure, incorporating maximum rate levels into the tariff, will allow the flexibility for adjustment below the maximum rate levels. Further, future local exchange service tariff filings will be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing will be suspended pending further Order of the Commission. Additionally, Progress Telecom, under the flexible regulatory scheme as approved by Order No. 98-165 in Docket No. 97-467-C, will be subject to the same monitoring process as similarly situated competitive local exchange carriers.




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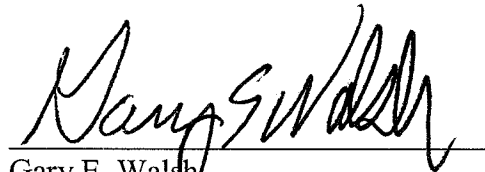
4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn  
Chairman

ATTEST:



Gary E. Walsh  
Executive Director

(SEAL)